

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN

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HUNG NAM TRAN,

Plaintiff,

v.

Case No. 08-C-228

ROBERT S. KRIZ and KIMBERLY M. ROBERTS,

Defendants.

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**ORDER DENYING MOTION TO PRESERVE EVIDENCE**

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Plaintiff Hung Nam Tran is serving a civil commitment at the Wisconsin Resource Center (“WRC”) in Winnebago County, Wisconsin, under Wis. Stat. Ch. 980 (Sexually Violent Person Commitments). Tran, proceeding pro se in his complaint under 42 U.S.C. § 1983, filed a motion to preserve evidence on December 1, 2008. Defendants have not responded to the motion within the 21 days provided by Civil Local Rule 7.1(b).

Tran moves the Court to order defendants to “itemize, preserve and notify the Court and the plaintiff regarding the existence of any evidence in dispute relating to this litigation.” (Doc. # 26 at 1.) Tran expresses a concern that defendants are unable to account for evidence relating to his case. The “disputed” evidence Tran believes lost or unaccounted for includes clothing he purchased from various vendors, magazines and catalogues.

In support of his motion, Tran merely outlines a belief that defendants can no longer account for certain evidence. Tran produces no evidence that defendants are actually destroying or

failing to retain evidence.<sup>1</sup> The defendants' duty to prevent spoliation of relevant evidence is inherent in the judicial process. *See Forrest v. All Cities Mortg. & Financial, Inc.*, 2007 WL 3026787, \*1 (E.D. Wis. 2007). As this is the case, and considering the fact Tran presents no evidence in support of his motion, Tran's motion is unnecessary and is therefore **DENIED** without prejudice.

**SO ORDERED** this 7th day of January, 2009.

s/ William C. Griesbach  
William C. Griesbach  
United States District Judge

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<sup>1</sup>Beyond not providing any evidence in support of his motion, Tran runs afoul of Civil Local Rule 7.1(a), as he failed to submit a supporting brief or statement that no brief in support would be filed.